



Office of the
Ohio Consumers' Counsel

Robert S. Tongren
Consumers' Counsel

May 16, 1996

Office of the Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION

Re: CC Docket No. 96-98, Part 2

Dear Secretary:

Enclosed please find the original and sixteen (16) copies of the Office of the Ohio Consumers' Counsel's Initial Comments to be filed in the above referenced proceeding.

Please date-stamp and return the additional copy in the pre-addressed, postage prepaid envelope to acknowledge receipt.

Sincerely,

David C. Bergmann
Assistant Consumers' Counsel

DCB/pjm

Enclosure

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**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION**

| | | |
|--|---|---------------------|
| In the Matter of |) | |
| |) | |
| Implementation of the Local Competition |) | CC Docket No. 96-98 |
| Provisions in the Telecommunications Act |) | |
| of 1996 |) | |

**SUMMARY OF
INITIAL COMMENTS
OF
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL
(Part 2)**

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FEDERAL COMMUNICATIONS COMMISSION

In brief comments on the four subject areas reserved for comment by the Commission at this time, the Office of the Ohio Consumers' Counsel (OCC) takes the following positions:

On the issue of dialing parity, OCC agrees with the Commission that the 1996 Act's dialing parity requirement covers international, interstate, and intrastate toll calling, as well as local calling. OCC also notes that the Act's delay of intraLATA dialing parity for the Bell Operating Companies does not affect the local dialing parity requirement.

On the issue of numbering administration, OCC argues that the Commission's responsibility under the Act to designate a neutral number administrator is not fulfilled until the administrator is actually designated. OCC agrees with the Commission that the implementation of new area codes should be left to the states.

Finally, on the issue of access to rights of way, OCC submits that the Commission should adopt minimum standards for denial of access to rights of way. Further, the utility

denying such access should bear the burden of demonstrating that denial of access is justified.

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION**

In the Matter of)
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Implementation of the Local Competition) CC Docket No. 96-98
Provisions in the Telecommunications Act)
of 1996)

**INITIAL COMMENTS
OF
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL
(Part 2)**

On April 19, 1996, the Federal Communications Commission (Commission) issued a Notice of Proposed Rulemaking (NPRM) on this docket. In the NPRM, the Commission asked for comment on a number of issues pertaining to Secs. 251 and 252 of the Telecommunications Act of 1996.¹ Four topics in the NPRM were singled out for a separate comment cycle. Those topics were dialing parity; number administration; notice of technical changes; and access to rights of way. After filing comments on the main part of the NPRM on May 16, 1996, the Office of the Ohio Consumers' Counsel (OCC) now files comments on the four sections. The portions of the NPRM are designated here by their place in the NPRM's outline.

¹ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56. In these comments, OCC cites only to the sections of Title 47 of the United States Code at which the language of the 1996 Act will be codified.

NPRM Sec. II.C.3. Dialing Parity (Paragraphs 202-219)

¶ 203. The identification of Ohio as a state “where some form of intraLATA dialing parity is available or has been ordered” requires clarification. Dialing parity has been achieved for Cincinnati Bell Telephone (CBT) and Western Reserve Telephone (WRT), as a result of stipulations with those companies in their alternative regulation cases.² CBT and WRT are two of Ohio’s 44 incumbent local telephone companies (ILECs), who serve a combined 830,000 access lines, some 14% of the state’s total. In WRT territory, in particular, dialing parity (known in Ohio as “Dial 1+”) has hardly been a substantial improvement for consumers.³

This is not to say that we do not believe that dialing parity is an important part of “leveling the playing field” in intraLATA interexchange and local calling patterns. As a partial solution in a portion of a state, however, it has its shortcomings. The Act, properly implemented, should take care of that shortcoming.

¶ 206. We agree with the Commission’s interpretation of the requirements of Sec. 251(b)(3) regarding the scope of dialing parity, that is, that the 1996 Act encompasses international, interstate and intrastate calling. If a consumer is making a local call, that call

² Cases cited in NPRM at footnote 286.

³ See *Western Reserve Telephone Company*, PUCO Case No. 93-230-TP-ALT, “Memorandum in Support of Motion to Reopen Proceedings and to Abrogate Order or to Find Western Reserve Telephone Company in Violation of Order and Commitments...” filed by Ashtabula County Telephone Coalition (August 24, 1994).

should have the same dialing pattern regardless of the consumer's local carrier and the carrier of the call recipient. If a call is toll, the consumer should be able to subscribe to any toll carrier and have the dialing pattern be the same.⁴

¶¶ 209-210 The Commission requests comment on the various dialing parity methodologies that individual states have adopted. As the Commission notes (NPRM at footnote 286) the method adopted in Ohio is the so-called "modified 2-PIC" methodology. It is clear that the "multi-PIC" or "smart-PIC" methodology is superior to the "modified 2-PIC," simply because it increases the level of customer choice available.

¶ 211. We wholeheartedly agree with the Commission's interpretation of the statute's reference to dialing parity. We look forward to commenting on the views of those who may differ from the Commission's definition.

¶ 212. We note a slight difference from the Commission's discussion of dialing parity for the Bell Operating Companies (BOCs). The Commission correctly notes that Sec. 271(e)(2) imposes a specific timeline on the BOCs' intraLATA toll dialing parity. However, nothing in the Act differentiates *local* dialing parity for the BOCs. They should be held to the same schedule for local dialing parity as other ILECs, in other words, upon the entrance of a local exchange service competitor.

¶ 213. OCC submits that in the current and future state of local and toll exchange competition, a balloting system would seem to be overly restrictive. We note that

⁴ Especially with the recent additions in area codes, many local calls require the dialing of area codes. It is likely that someday, we will be dialing more digits than the current seven for every call. Regardless of the number of digits, dialing parity requires the dialing pattern to be the same regardless of the consumer's presubscribed carrier.

“balloting” for the consumer’s local service carrier is unnecessary; all a customer has to do is to sign up with the new carrier. Given the nature of local exchange competition, however, consumers will probably have to take affirmative action to cancel their arrangements with their current carriers. (It is not entirely clear that consumers will have only one provider of local telephone service, both basic and discretionary services.)

¶ 214-217 We agree with the Commission’s conclusions in these paragraphs, but believe the conclusions to be so obvious that no further Commission action is needed.

¶ 219. Given that the Act does not specify how dialing parity costs are to be recovered by LECs, OCC submits that this is a matter best left to the discretion of individual states.

NPRM Sec. ILE. Number Administration (Paragraphs 250-259)

1. Selection of a neutral number administrator (Paragraphs 250-253)

¶ 252 The Commission requests comment on its tentative conclusion that its *NANP Order*⁵ satisfies the Act’s requirement (Sec. 251(e)) that the Commission designate an impartial number administrator. However, as the Commission describes it, the *NANP Order* merely indicated the Commission’s intention to designate a new administrator. Until the designation actually occurs, the Commission’s responsibility under the Act is not fulfilled.

⁵ *Administration of the North American Numbering Plan*, CC Docket No. 92-237, Report and order, FCC 95-283 (rel. July 13, 1995).

2. State role in numbering administration (Paragraphs 254-258)

¶ 256-257. We agree with the Commission that the Act confirms its prior authority to set guidelines for numbering administration, while leaving to the states their inherent ability to “understand, judge and determine how new area codes can best be implemented in view of local circumstances.” This is, indeed, consistent with the extent of Commission authority throughout the Act.

3. Cost related to number administration (Paragraph 259)

¶ 259 We agree that the Commission need take no further action on this issue, given its prior decisions.

NPRM Sec. II.B.4. Duty to Provide Public Notice of Technical Changes (Paragraphs 189-194)

OCC has no comments on this portion of the NPRM. We may comment in reply to others' positions.

NPRM Sec. II.C.4. Access to Rights of Way (Paragraphs 220-225)

¶ 222. A fundamental principle of nondiscriminatory access to poles, ducts, conduits and rights of way is that the LEC provides the same terms to competitors as it does to itself or an affiliate. A heavy burden should be on the LEC to justify any difference in treatment.

¶ 223. OCC has no comment on details of specific standards for denial of access to rights of way. However, we agree that the Commission *should* adopt minimum standards for such denials, and should place on utilities the burden of demonstrating that denying access is justified. This is the same burden that should be placed on LECs to show that


interconnection is not technically feasible at a requested point. *See* OCC's Comments (Part 1), filed May 16, 1996, at 11.

CONCLUSION

OCC commends these comments to the Commission's attention, and looks forward to the opportunity to reply to other stakeholders' comments.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that the Initial Comments of the Office of the Ohio Consumers' Counsel have been served by overnight mail to the International Transcription Service, and in diskette form to Janice Myles on this 16th day of May, 1996.



David C. Bergmann
Assistant Consumers' Counsel